

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of Parts 73 and 74 of the)	
Commission's Rules to Establish Rules for)	MB Docket No. 03-185
Digital Low Power Television, Television)	
Translator, and Television Booster Stations)	
And to Amend the Rules for Digital Class A)	
Television Stations)	

To: The Commission

**REPLY COMMENTS OF
THE NATIONAL TRANSLATOR ASSOCIATION**

George R. Borsari, Jr.
Anne Thomas Paxson
Borsari & Paxson
4000 Albemarle Street, N.W.
Suite 100
Washington, DC 20016
(202) 296-4800

December 29, 2003

TABLE OF CONTENTS

Summary	ii
Introduction.....	1
NAB/MSTV	3
Rural 700 MHz Band Users.....	11
Motorola.....	13
Qualcomm, Inc.....	15
Paxson Communications Corporation	20
Cherryland Wireless	22
Watch TV	25
Word of Life Ministries	25
Conclusion	26

SUMMARY

The National Translator Association (“NTA”) submitted extensive initial comments in response to the Notice of Proposed Rulemaking in this proceeding. The Commission received a significant number of comments from a wide range of spectrum users, manufacturers, and other associations of users and manufacturers.

In these Reply Comments, NTA has attempted to address some of the major issues raised by other commenters. NTA’s position on the various issues remains unchanged, and NTA does not attempt to submit replies to each and every point on which another commenter might disagree. Rather, NTA’s response is limited to those major issues specified herein.

NTA continues to believe that the Commission should move ahead quickly with the adoption of digital Rules considered in this proceeding, so as to enable existing analog users to apply for companion digital channels at the earliest possible time.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Parts 73 and 74 of the)	
Commission's Rules to Establish Rules for)	MB Docket No. 03-185
Digital Low Power Television, Television)	
Translator, and Television Booster Stations)	
And to Amend Rules for Digital Class A)	
Television Stations)	

To: The Commission

**REPLY COMMENTS OF
THE NATIONAL TRANSLATOR ASSOCIATION**

The National Translator Association ("NTA")¹, by its attorneys, hereby submits its Reply Comments in the above-referenced proceeding.

INTRODUCTION

In response to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC" or "Commission"), a large number of comments were received by the Commission. NTA hereby reaffirms the specific points made in its own comments. Most parties submitting comments were in favor of the concept of allowing Part 74 stations to have companion digital stations. NTA, in these Reply Comments, has not attempted to

¹ NTA is an organization of owners and operators of radio and television translator stations throughout the United States, both commercial and noncommercial, which provide high-quality over-the-air radio and television service to underserved areas. NTA, since its inception, has been concerned with the quality and the amount of radio and television programming that is available over the air to residents of underserved areas of America.

reply to every issue raised by every commenter that agreed with that broad position. Rather, NTA has addressed the major issues raised in the comments by opposing parties.

To the extent that some of those comments disagree with views expressed by NTA, to which NTA makes no reference herein, silence should not be interpreted by the Commission as NTA having conceded a point. As NTA noted in its initial comments, Commission staff have thoroughly examined the issues, and, in the NPRM, have proposed comprehensive rules addressing the issues that were raised. Whether the Commission adopts some or all of the changes proposed by the National Translator Association, we again urge the Commission to proceed expeditiously with the resolution of outstanding issues and the adoption of Rules that will allow translators, low power television stations, and Class A stations to obtain companion digital authorizations. The people who live in rural and underserved areas of America are entitled to the same advantages as people in urban areas, and that includes access to the complete array of free, over-the-air television programming that is available. Furthermore, the authorization of companion digital stations to existing translator, low power, and Class A licensees furthers the digital conversion. The use of translators and low power television stations, and even Class A television stations, is the only means by which high definition television in sufficient quantity will be delivered to underserved areas. Actual experience with digital TV in translator served areas is being gained through several digital translators operating under experimental authorizations. The digital TV so delivered is being enthusiastically received by area viewers long accustomed to adequate but less than perfect analog TV. This

enthusiasm carries through due to improved quality even if the signal is actually displayed in the home in analog format².

NAB/MSTV

The National Association of Broadcasters (“NAB”) and the Association for Maximum Service Telecasters (“MSTV”) filed joint comments. The National Translator Association will address some of the points that were made in those comments.

In the executive summary of their comments, the NAB/MSTV stated: “The Commission should plan for Class A, LPTV and translator stations to transition to digital on-channel,” and “This will avoid disrupting the transition of full power services while allowing other services to become part of the digital environment.” Initially, it might be observed that the NAB/MSTV comments are noteworthy for the fact that neither statement is supported in the text of their comments. They seem to assume that it is somehow self-evident that a secondary service would have an adverse impact on the digital transition, but they never explain how any secondary service could have such an impact.

Significantly, NAB/MSTV did not address the adverse public interest consequences of a failure by the Commission to enable translators and low power television stations, and, to the extent that they would be secondary, Class A television stations, to further enhance the digital transition. First, with regard to Class A television stations, it should be noted that Class A stations were created by Congress, over the objection of both the Federal Communications

² Some viewers are equipped with full high definition TV sets. Others use set top converters to derive a signal which can be viewed on a standard TV set. In other instances a standard definition digital program is included in the original digital transmission and can be used as a high quality input for an analog translator. The improved input signal results in a correspondingly improved output signal .

Commission and the National Association of Broadcasters, because Congress believed that there was a critical need in the country for small television stations to provide programming in otherwise underserved areas. However, the Commission has proposed that any companion digital station to a Class A station be subject to the same Rules and policies as the translators and low power stations. Accordingly, it can be assumed that the authorization of additional services that are secondary to full power stations, and can be replaced by full power stations, in fact would have no adverse impact on the digital transition.

Apart from the Class A stations, which are Part 73 stations and have certain primary rights (again, because Congress felt it was important and in the public interest to create those stations), low power television stations and translator stations are licensed under Part 74, and are secondary to all other primary users. The National Translator Association is not aware of a single instance in which the existence of a low power television station or translator station has had any adverse impact whatsoever on the transition of the television industry to digital broadcasting. What the NAB and MSTV did not address was the adverse impact on the digital transition if the Commission does not allow companion digital stations.

Translator stations, in particular, exist because to a significant extent full service stations, either because of location, power, design, or other factors, cannot serve particular areas. Therefore, the translator stations pick up the signals of those full service stations and rebroadcast them to underserved areas. It is fairly safe to say that a translator station does not exist where there is strong adequate coverage from the full service station. Therefore, translator stations do not compete with full service stations, but rather they enhance the coverage of full service station.

The digital transition, and the benefits of the digital transition, do not exist at all in rural areas. The only way that people in rural areas can now see digital television is to subscribe either to cable or to a direct broadcast satellite operator, but this is of limited help as very little of this digital TV is actually high definition. The translator station brings to rural America, and to other underserved areas, the same benefits as are enjoyed in urban areas. By allowing the translators and low power stations companion digital stations, the Commission is allowing residents of both urban and underserved areas to participate equally in the digital transition. Translators and low power television stations, and Class A television stations, are integral parts of the digital transition, and enhance, rather than hinder, that effort. Early on in the planning for the digital transition the FCC determined that full service stations could not “flash convert” because the public could not cope with such a instantaneous conversion. Translators cannot flash convert for the same reason.

The NAB and MSTV, while directing the bulk of their comments to the hindrance of low power and translator stations to the digital transition, also indicate in their pleadings that they want to allow “other services to become part of the digital environment.” NTA is somewhat puzzled by the effort of the NAB and MSTV to allow other, presumably non-broadcast, services on the television band. NTA would have thought that both MSTV and the NAB would be trying to preserve and extend free over-the-air television to as much of the country as possible.

NTA will not attempt to address all of the points made by the NAB and MSTV, but certain notable comments stand out. On page 3, NAB/MSTV state, in reference to allowing a second channel for digital operation, that “it would impede the ability of full service stations to move to purely digital operations by inhibiting the repacking of core broadcast spectrum and

causing interference to digital service provided by full power broadcasters.” The argument seems to be based on three points. First, the NAB/MSTV quotes on page 3 the Commission’s statement that it is finding it more difficult to find channels for low power television and translator stations in the core. Second, beginning with the second biennial review, the NAB and MSTV have begun to look at the issue of repacking as it affects the digital transition and the availability of spectrum; and, third, that unspecified interference issues exist which somehow need to be worked out.

First, with regard to the interference issues, the NAB has not explained how or why or what those interference issues are. Second, the NAB and MSTV have not offered any information concerning the results of their newfound interest in the spectrum availability issues that they are now looking at. Finally, NTA concedes that it is more difficult to find channels with the full service analog stations operating within the core, the companion digital stations of the full service stations operating in the core, and the existing low power, translator, and Class A stations operating within the core. However, it is a spurious argument, because obviously, if there are no channels available then the low power, translator, or Class A applicant will not be able to apply for a second (companion) digital channel. The availability of the application process to translators, low power operators, and Class A stations is of course conditioned upon the availability of channels.

On page 6, the NAB and MSTV address the possibility of second channel authorizations for Class A and translator stations. The argument seems to affect mostly the Class As, and the Commission in its NPRM has specifically provided that the allowance of a second digital channel for translators and low power and Class A stations will have no impact on the digital

transition by making the companion digital station of the Class A station a secondary service. Certainly the argument has no validity when it comes to the low power television and translator services, because they are secondary services, and have never had an impact on the full service stations. In fact, full service stations own a significant number of translators and in many areas of the country rely on translators to extend their service beyond their predicted contours as well as to bring their service to underserved areas that are within their predicted contours.

On page 8, the NAB/MSTV advances the argument that to allow companion digital stations for the secondary services would mean that the Commission would be flooded with applications and that flood of application would be a tremendous diversion of the Commission's resources. The NAB and MSTV perhaps are not aware that there is a separate staff at the Commission within the Video Division that processes low power, Class A, and translator applications. It is hard to imagine how additional applications to be processed by this separate staff affect the Commission's resources. They also note on page 8 that by "cluttering up" limited spectrum with more channels, all of which have a significant chance of being displaced through the repacking process merely encourages the investment of money by service providers and time by the Commission that in many cases would end up wasted. Again their argument ignores the equity requirement to provide a full measure of service to rural America and indeed to shielded pockets of people near and even in urban areas. The Digital Table of Allotments is largely in final form now and will be even nearer to completion when digital translator applications can first realistically be filed – early 2005 at under the best of circumstances. Operators of secondary service stations are well aware of their status, i.e., that should they receive an authorization and later be displaced by a full service station for whatever reason, that is a risk that they run that is

inherent in the service they offer to the public. Current production translators are frequency agile, and broadband transmitting antennas useable over the whole UHF band are a viable option in most cases, so that a mandated change in frequency does not mean the initial investment in equipment is lost. The very limited possibility of future full service station channel changes is not a reason to delay the adoption of rules for digital translators.

Also on page 8, the NAB/MSTV comments raise the issue of impediments to international agreements, suggesting that the Commission's plan would "exacerbate the problems confronting full service stations with respect to international agreements." What problems? International agreements cover only a very limited area of the United States, generally within a few hundred miles of the borders. Is it right and proper to deny to large segments of the American population digital over-the-air free television in order to avoid some sort of unspecified problem with an international agreement near the border? NTA submits that it is not. Rural and underserved America is entitled to the same availability of the free over-the-air digital television that is enjoyed by urban America. To the extent that the NAB and MSTV have any legitimate arguments about these secondary services, they should be addressed, but NTA does not believe that unspecified impacts on international agreements should be the basis of a determination that very large segments of the United States should not receive free digital television.

On page 9, the NAB/MSTV specifically quotes the NPRM at paragraph 109, where the Commission has specifically proposed making the companion Class A digital station a secondary service under Part 74, but nevertheless repeats its argument, without explanation, that somehow the secondary services will impede full service broadcasting.

On page 11, the NAB/MSTV addresses the statutory requirement, specifically 47 USC Section 336(f), that provides that the Commission is not *required* to issue any additional licenses for digital stations to any Class A station or television translator station. The statute is silent with regard to low power television. NAB and MSTV aver that, should the Commission decide to issue companion digital authorizations to Class A stations, it should not under any circumstances authorize companion digital stations for translators. However, Congress specifically indicated that the Commission *could* authorize digital stations for translators, and NAB/MSTV do not explain why they make the distinction between the two services. The NAB/MSTV position is somewhat surprising, given the fact that a significant number of the translator stations in the United States are owned by full service broadcasters, and certainly, by law, translator stations that do exist have the affirmative authorization from a full service station to bring that full service station's signal to an underserved area. The television industry relies heavily on translators to distribute its signals, and NTA would have thought that NAB and MSTV would have embraced the proposals to expand the opportunities to bring free, over-the-air television to rural areas. By focusing on the process, i.e., the processing of applications, difficulties with international agreements, and so forth, the NAB and MSTV essentially miss the public interest point, and that is that full service television needs translators in order for it to serve the public interest. The cost alone to full service television stations to expand their facilities to include service to those areas now serviced by translators would be horrendous and in many instances not technically feasible regardless of cost. The NAB/MSTV position, however, seems to be that they need to preserve spectrum so that broadcasters can invest significantly more than they have to date in digital facilities, instead of utilizing the much more economical method of providing

service through translators where incidentally much of the cost will be borne by local entities, not the broadcaster.

On page 17, the NAB and MSTV suggest a prohibition on interference agreements between all classes of stations. Again, this position ignores the reality that interference agreements exist usually under three circumstances. First, they exist where both parties recognize there is terrain shielding isolating the stations and there will be only insignificant interference, if any in actuality. Second, interference agreements are found between the full service stations and their own translators, where the full service station is more than willing to accept a small amount of interference so that its translator can bring service to an area that the full service station believes is important to its coverage. Third, there have been agreements between two translators and/or LPTV stations. One or both accept(s) a small amount of interference so both stations together can serve a much larger population total than would be possible in the absence of the agreement. The NAB and MSTV do not explain why they believe that interference agreements which always result in more total service are inconsistent with the public interest.

NTA submits that the interference agreement requirements and regulations as they now exist provide more than adequate protection to the spectrum, while advancing the primary purpose of the Commission, that is, bringing over-the-air service to as many people as possible.

On page 19, the NAB and MSTV urge the Commission to require that a Class A, LPTV or translator station converting to digital on-channel operation should be required to provide notice to all affected full power stations. Again, there is no support for this position, and requiring further notifications beyond the public notices issued by the Commission simply slows

down the process, further adversely affects the Commission's resources, and provides no real benefit to the public interest. Again, these are secondary services, and if that secondary service causes objectionable interference it will be shut down.

RURAL 700 MHZ BAND USERS

A number of organizations which are either eligible to start using spectrum in the range of 692 to 806 MHz (hereinafter sometimes "700 MHz users") or prospective suppliers to such users submitted comments opposing the authorization of any additional translators in this frequency band.

UHF translators were originally mandated to use TV channels 70 to 83 but were forced off these channels to make room for other users. The next mandate which lasted until the present LPTV/TV translator rules were put into place was to use channels 55 to 69. Most translators in the previous higher channel range moved into the 55 to 69 range; this was also a time before filing windows, so many new translators came into being also using channel 55 to 69. Now, in addition to the need to yield to the new users of channels 52 to 69, many translators already in the core are displaced by companion digital channel assignments given to full service stations, and these displacements are upon us now. Further, it should be remembered that significant numbers of TV translators are licensed to a local entity such as a county government or a tax district acting in response to the public's demand for free over-the-air television. Translator operations are mostly public service activities with no profit motive. Regardless of the licensee, however, all translators serve the public interest by bringing a free over-the-air television service to residents of underserved areas. Further, translators in rural areas are the only transmission medium that has the capability of bringing high definition television to rural areas.

Given the FCC's oft-stated policy of encouraging a full measure of all kinds of communications in rural areas, the thoughtless treatment to which translators have been subjected over the years is disheartening. It is equally disheartening to read that organizations that will be doing business in translator served communities are demanding Rules and/or policies which stand in the way of translators providing the maximum service to the public during two transitions, the conversion of full service analog TV stations to digital and the institution of new uses in this spectrum.

Opposition commenters raise the possibility of difficulty in identifying operating translators which will have to release spectrum when the new users are ready to start operation . We remind them that the FCC has a search facility, the "TV Query" program in the LPTV section of the FCC web page that will provide a list of all translators, with their technical parameters, within a given distance of a specified location (latitude and longitude) operating on any channel within a specified range. Then all recent applications are available for viewing or downloading from the CDBS facility and these applications provide ample information for contacting the persons responsible for the operation of a specific translator. The NTA disputes the contention that new authorized users of the 700 MHz spectrum will encounter difficulties in identifying translators in their area or experience frequent resistance on the part of translator licensees to vacating a channel when the new user is ready to start operation or even pre-operation testing.

It should be noted that in many instances the best way for a translator licensee to avoid a shutdown is to move to another channel in the range 52 to 69 as a temporary home until the transition is over, the full service stations are back to using one channel and there are spaces

within the “core channels”. Translators are not economic competitors of the 700 MHz user. The NTA hopes that the 700 MHz users will agree that simple fairness requires that all concerned extend themselves a little bit to accommodate digital translators bringing digital primary stations to translator served areas. It is incontrovertible that in some locations the channels most free of interference are in the 52 to 69 range. No one would ask for a channel in this range if an in-core channel with the same or nearly equal coverage were available. The use of an out-of-core channel would be a temporary measure until the DTV transition is over, the translator no longer needs a companion digital translator, and more channels are available in the “core.”

It is a very large country and any blanket restrictions on the temporary use of channels 52 to 69 in order to avoid the need for cooperative action in a relatively few areas would needless inhibit the full extension of free over-the-air TV to rural America.

MOTOROLA

In the reply period Motorola, Inc submitted what it styles “Reply Comments,” which make no reply to earlier comments but do raise one new issue.

Motorola opposes granting of previously filed applications for analog LPTV or TV translator stations specifying channels in the 52 to 69 range, noting on page 3 that the Commission: “....recently released a Public Notice that contained 18 applications for analog translators and LPTV stations proposing to operate on channels 52-69....” Motorola “therefore urges the FCC to immediately institute a prohibition on the installation of new analog LPTV stations, translators and boosters on UHF-TV channels 52-69.”

To fail to process applications that were submitted in good faith under the Rules in place

at the time of filing would be patently unfair. If an application in the channel 52 -69 range specifies a location where there is a conflict with the actual operation of a higher priority user, then the new CP holder is eligible for a displacement change before building and no conflict need result. If there is no conflict, it would be unfair to not grant the application.

Some suggest the Commission should open a filing period in which all pending applications for channels in the 52-69 range would be required to amend to an in-core channel. This plan has several difficulties. If a replacement channel in the core were not available for a particular application then the applicant would be denied the possibility of surviving until the end of the transition on some channel in the 52-69 range. Also, some applicants without a conflict would be forced to settle for an in-core channel with more restricted coverage than would be obtained from the original application. It is clearly preferable to grant pending applications, followed by displacement applications as may be necessary.

On page 5, of the reply comments Motorola talks about investment being recouped by a translator licensee, implying that a period of operating time was necessary that would prevent other users from operating: “Therefore, either the newly licensed low power broadcasting operators would be forced to relocate prior to any substantial investment recoupment or public safety licensees would be required to wait even longer for the unencumbered spectrum necessary to fully implement operations on this band.”

There is no legitimacy to the question raised above concerning the temporary use of channels 52 to 69 by LPTV or TV translator stations requiring Motorola’s customers to “wait longer.” The LPTV and TV translator stations are secondary spectrum users, and there is no question but that they will yield when the higher priority stations are ready to commence

operation. Further, recent and current production LPTV and TV translator transmitters are frequency agile (except possibly for retuning of the output filter). In most cases newly constructed translators on out-of-the-core channels could use broadband panel antennas (and would be well advised to do so). Thus a channel change need not require a major replacement of equipment and can be a relatively minor cost. The investment recoupment issue raised in the Motorola reply comments is of much less significance than the continuing access by the public to free over-the-air TV service gained through the full use of channels 52 to 69.

QUALCOMM. INC.

In its comments Qualcomm, Inc. (Qualcomm) expresses its opposition to the operation of LPTV stations in the “700 MHz Band.” It does not include any references to TV translators except when directly quoting the NPRM. However, as translators operate under the same rules as LPTV stations as far as spectrum use is concerned the NTA feels it should point out certain problems with Qualcomm’s statements.

In its Summary Qualcomm states in part:

“[T]he proposal [to use the 700 MHz band] is an ill conceived notion, based on a faulty premise, that will waste millions of dollars . . . adoption of the proposal is likely to delay and impair the provision of innovative, exciting new services to the American people.”

As will be shown in the following detailed answers the proposed continued use by existing and new LPTV and TV translator stations will neither waste millions of dollars nor impede the introduction of the new services.

As the NTA has pointed out, there is a great need for maximum flexibility during the transition period if a full measure of both analog and digital free over-the-air TV is to be available to rural America. The 700 MHz spectrum will be used soon by some higher priority

users in some areas, but not by all new users nor in all areas. Today only three channels in the 52 to 59 range have been auctioned and only four channels in the 60 to 69 range (the public safety channels) have been assigned to new users. The NTA firmly believes there will be a large number of areas where one or more channels in the 52 to 69 range will be available until the transition to all digital operation is complete and vacancies will open up in the core channel group. The NTA urges that the public interest as it relates to free over-the-air television, both analog and digital, requires the availability of channels 52 to 69 subject only to the observation of the secondary status. As we have pointed out elsewhere the need for new 700 MHz users to coordinate with translator licensees or permittees with actual or prospective uses in this frequency range is a small inconvenience offset by a large benefit.

As far as wasting millions of dollars the NTA previously pointed out that current production LPTV transmitters and TV translators are frequency agile, subject only to retuning the output filter. Panel type broadband antennas are readily available and suitable for most of these installations and do not cost significantly more than single frequency antennas. Thus if a new LPTV or TV translator station were built on a channel in the 52 to 69 range because the selected channel was the best available at the time it could switch to a new channel at minimum cost subject to the availability of a substitute channel at the time the change became necessary. New channels could come open or be made available in any one of several ways:

- 1) An LPTV or TV translator station could displace to a channel adjacent to another channel at the same location which would be less desirable than using a channel in the 52 to 69 range but which is a workable solution.

- 2) A TV translator could change from direct off-the-air input to a microwave feed and

thus would no longer have to protect its input channel potentially freeing up that channel and two or more adjacent channels on either side³

3) An LPTV or TV translator station might displace to a second choice channel which would work only with a more restricted antenna pattern and/or lower ERP resulting in a station with less coverage, but one which is still better than none.⁴

4) Changes in the full service digital Table of Allotments are on going and each in turn changes what channels are available for LPTV or TV translator stations within a radius of 200 miles or more.

There are eighteen channels in the 52-69 range. Which channels will go into a new use in what areas is impossible to predict. Given the size of the country and the number of channels there are certainly going to be many opportunities to use channels in this range for secondary services until the full service stations are back to using one channel and there will be in-core vacancies. Thus in many instances it is advantageous to start with a channel in the 52-69 range and use it as long as it is available and change to a less desirable second choice channel when

³A translator operating on a direct off-the-air input must protect its input channel from interference from the output channel. How many adjacent channels are needed for protection on either side of the input channel depends upon how strong the input signal is, but generally the output channel has to be at least three and sometimes four channels removed from the input channel.

⁴For instance consider a situation where a digital signal is delivered to a rural area on a channel in the 52-69 range, but at some point is required to reduce power to avoid interference to a higher priority user nearby because no other channel is available. To a considerable extent this loss of power can be made up at the viewing locations by the use of a better receiving antenna, such as changing from indoor reception to an outside antenna, but it is better to use the higher power until the reduction is necessary. It is certainly better to have this station, even with the disadvantage, than no station at all.

and if necessary.

Page 4, line 4:

“Qualcomm . . . is fearful that it [the Commission] may have lost sight of the important caveat “*where spectrum is available*” in its rush to authorize digital LPTV service. In short spectrum is not available in the Lower 700 MHz Band. It has been auctioned to, and will soon be used by, the Lower 700 MHz licensees.”

The NTA sharply disagrees with the implication that the Commission has rushed to authorize digital LPTV service and particularly digital translators. We have been asking for a means to establish digital translators for several years and only now after much prodding by us has the Commission released this NPRM. We do know, however, that one of the reasons for the delay is that the Commission had many internal discussions of issues such as the continued use of the 700 MHz spectrum by secondary services before releasing the NPRM. In actuality the process has been slow and deliberate. There has been no rush. As to the prediction of implementation of use, as we have previously pointed out, the new users will not use all of the band any time soon.

At page 8, the first full paragraph, Qualcomm states:

Qualcomm believes it would be a serious error to make Lower 700 MHz spectrum [channels 52 to 59] available, even on a secondary basis to new digital Low Power Television stations, as well as to any additional analog LPTV stations.

Qualcomm has speculated on difficulties associated with the full continued use of the lower 700 MHz spectrum by existing and new LPTV and TV translator stations but has not balanced the public interest of the continued filling in of unserved areas with analog signals and with the bringing of digital signals to rural America.⁵

⁵Many translator served areas do not have a full compliment of signals rebroadcast into their area. The newer networks such as UPN, Warner and Paxson are frequently missing and translators repeating Hispanic primary stations are rare. These primary stations have come into

Qualcomm speculates, at Page 10, second paragraph, that “[t]he *NPRM* appears to reflect a change in the Commission’s commitment to the reclamation of the Lower 700 MHz Band in favor of a commitment to digital LPTV.” The NTA finds it hard to understand how allowing a continued use of this frequency band **on a secondary basis** reflects a change in the Commission’s commitment to make this spectrum available to new users when they are ready to use it.

Qualcomm reveals that it does not understand the television market at page 10, third paragraph:

Recent reports suggest that DTV transmissions can currently be received in 201 television markets representing 99.7% of the total US households. One can only assume that the “significant role” the *NPRM* has in mind is the missing 00.3%.

This statement completely misses the point. Having a presence in a market is not the same as providing coverage throughout the market. For example the Salt Lake City market has digital primary stations, but these signals reach only the Salt Lake City Valley. The rest of the Salt Lake City market will get no over-the-air digital television without companion digital translators to match the some 300 analog translators that cover the rest of the state. This is but one of dozens of examples where having one or more digital stations in a market does not mean digital TV is available throughout the market. Further, to the extent that a component of digital availability is provided by satellite, HDTV signals will not be available because of bandwidth limitations.

being relatively recently and it has been difficult to get applications filed for translators to carry them but there is still a need. As stated previously if this need is to be fulfilled it will be necessary to use channels in both the lower and upper 700 MHz band on a secondary basis.

Qualcomm implicitly concedes that the spectrum will not be fully utilized by the new users immediately (see page 14, line 1): “In some parts of the country service on the Lower 700MHz spectrum can be deployed immediately.” “Can be deployed immediately” is not the same as will be deployed immediately. Further the statement recognizes that immediate deployment will not be more than “in some parts of the country.” The NTA believes this part of Qualcomm’s statement actually confirms there is considerable room for secondary use of this spectrum during the transition.

Finally, at page 14, Qualcomm references the formation of a new organization to work on 700 MHz issues:

. . . the Lower 700 MHz licensees have organized an informal organization, the 700 MHz Advancement Coalition, . . .

NTA believes that close cooperation between translator licensees and Lower 700 MHz licensees is important for the most efficient use of the spectrum and a smoother transition. The NTA invites discussions with the Coalition.

In summary, NTA believes the overriding consideration is the gain in the flexibility and additional service in the public interest which will be gained by the use of the 700 MHz spectrum by LPTV and TV translator stations even on a secondary basis. In its comments, Qualcomm has not made a case for restricting such use.

PAXSON COMMUNICATIONS CORPORATION

Paxson Communications Corporation (“PCC” or “Paxson”) submitted comments in opposition to the Commission’s adoption of its proposed digital rules in general, and specifically opposed the proposal to allow the temporary use on a secondary basis of channels above 51 for

digital translator, low power, and Class A television stations. Paxson's comments seem more directed to its frustration with the slow pace of the Commission's processing of some of its full power requests. The thrust of the argument is that since the Commission is unable to deal with Paxson's and others' pending full service digital applications, it should not then devote its resources to digital translator and low power applicants. As PCC, the licensee of a number of low power television stations, knows, the Commission has a separate group that processes low power television. Furthermore, Paxson does not address the grave public interest considerations involved in this digital rulemaking. The transition to digital television is not just about urban markets. The transition to digital television is about bringing digital service to the entire nation, including allowing rural and underserved areas.

PCC's comments approach this issue from the standpoint of the impact on Paxson of the digital transition. The focus of the Commission in adopting rules to facilitate the translator, low power, and Class A stations' transition to digital, however, should be on the people who cannot now receive high definition television and over-the-air free digital television.

PCC suggests that this rulemaking is unnecessary because the translator, low power, and Class A stations can "flash cut" to digital operation. This argument ignores the practical realities of implementing that type of policy, and it ignores the differences between full power stations and stations in the secondary services. First, the practical reality is that translators especially serve rural and underserved areas. To require translators to flash cut to digital, means they must suddenly discontinue their analog service, but the sudden termination of analog service will leave many rural people without any free television. In urban areas there is usually a plethora of full service television station signals, most of which have companion digital stations that are

operating. Accordingly, the urban population has the opportunity for the gradual transition to digital reception capability so that a “flash cut” would not cause a significant loss of service. To suddenly “flash cut” in rural areas means that the entire rural United States must suddenly develop overnight digital reception capability. That is not a feasible policy, nor is it desirable. Rural and underserved America should be afforded the same opportunity as urban America to enjoy the benefits of free over-the-air digital television.

PCC also opposes the use of the 700 MHz band on a temporary basis by secondary services because PCC believes that it will somehow create a class of users that will attempt to delay the digital transition. The adoption of this digital rulemaking by the Commission, and the acceptance and grant of applications providing companion digital stations, in fact enhances the digital transition. When the transition is over and both full service and secondary stations will each be using only one channel, displacements of the out-of-core translators into the core would generally be possible. NTA feels very strongly that the secondary use of channels 52 through 69 during the transition period, even for new translators, analog or digital, is urgently needed if the service to which rural America is entitled is to be provided. New stations on these channels with secondary status will have no adverse impact on the digital transition.

CHERRYLAND WIRELESS

Cherryland Wireless states that it has subleased LPTV stations W25CU, W34CR and W41CK, that under a development authorization it has used UHF channels 25, 34 and 41 in a digital mode for one way datacasting, and that it has found that the propagation characteristics of the UHF broadcast channels to be superior to the MMDS channels. Cherryland recommends that digital authority for LPTV station should not be limited to video services but should include

datacasting services as well.

First, the NTA would point out that channels 52 to 69 are in the process of being reclaimed and most, except those four specifically reserved for public safety, have been or will be offered for acquisition by auction. The type of service proposed by Cherryland appears to be authorized for the auction spectrum. We understand Cherryland's desire to expand in the datacasting business by getting 6 MHz of spectrum for only an application fee. However, they should be required to compete in the channel 52-69 auction for spectrum.

NTA is aware that hundreds of the applications filed in the 2000 window were filed on speculation that the Commission would authorize a datacasting service within the television bands. These applications are slowing the authorization process and are depriving people of free over-the-air television. The Commission should make it totally clear that TV broadcast channels are for the purpose of providing TV programming to the public and that any other use should be incidental to this primary purpose. To the extent a case can be made for datacasting, it should be a separate service.

Cherryland's appended Annual Report expresses a strong interest in rules that would allow expansion of LPTV stations into two-way datacasting⁶ and suggests a return signal power level which presumably its engineers have determined is needed, but which surely would be troublesome:

⁶ Annual Report - Development Authorization, Low Power television Datacasting, W25CU Traverse City, Michigan, W34CR and W41CK Petoskey, Michigan; second page, fourth full paragraph. Appended to Cherryland's comments.

[W]e have contacted a number of equipment manufacturers who are interested in providing low power (2-3 watts ERP maximum) UHF transmitters to establish two-way UHF wireless service.

The NTA is particularly skeptical of the feasibility of return digital data transmissions from a large number of sources mixed in with users who are trying to receive TV programs simultaneously. The problem is exacerbated in rural areas because the signal levels in such areas tend to be relatively low and easily interfered with, whether the signals are direct distant (fringe area) reception from the primary station or are from translators. Such interference would be an annoyance with analog TV but it is expected to be a disastrous problem with digital reception. A burst of return data, no matter how short, could easily overload a neighboring digital TV receiver, paralyzing it and causing it to lose lock on the digital signal. By the time the digital receiver had recovered and reacquired the digital signal, another burst of data would cause it to overload again. Thus brief bursts of return data easily could totally block nearby digital reception. The prospect of such data bursts with an ERP of 2-3 watts from multiple sources in close proximity to digital TV receivers is a cause for real concern.

Populations in rural areas undeniably have less access to high speed Internet connections than are available in urban areas and would benefit from better service. However, given the potential problems and the other options which are available we think any plan to authorize two-way transmissions on UHF broadcast channels should be avoided.

If the Commission has any inclination to allow two-way data transmissions on UHF channels a rigorous theoretical analysis of the predicted interference impact on nearby receivers should be prepared . If the indication is that significant interference would probably not result, the theoretical analysis should be followed by a scientifically rigorous field test to validate the

theoretical results and confirm that such operation would not be detrimental to digital reception by nearby receivers. As a final step the Commission should examine whether such two-way use would, by preempting broadcast channels which otherwise would be available for LPTV or translator use, stand in the way of the growth of both analog and digital LPTV stations and TV translators as required to fully meet the needs of rural America. Ultimately only through a separate rulemaking dedicated to this subject can the public interest as it relates to this question be determined.

WATCH TV

In its comments, Watch TV has requested a priority for Class A companion digital applications “because of the local service they provide.” NTA believes that Class A television stations, low power television stations, and television translator stations all serve the public interest, they complement each other, and none should receive a priority. A case can be made that any one of the three should have a priority. The fact that Class A television, low power television, and television translator stations exist establishes the demand for the services provided by each.

WORD OF LIFE MINISTRIES

Word of Life Ministries urges the Commission to adopt a complex set of priorities for choosing among mutually exclusive applicants for the companion digital stations. NTA believes a complicated set of priorities for obtaining a companion digital channel or for converting an analog channel to digital would be counterproductive, even though this proposed set of priorities is advanced as a means of hastening the transition. The speed of the transition is going to be governed by the actions of the full service broadcasters and the speed with which the public

equips itself with hardware to take advantage of digital broadcasts. NTA urges the adoption of the simple plan of a filing window for companion digital stations, followed by rolling one-day windows after the first group of stations has had a reasonable time to resolve any conflicts and the database is stable.

CONCLUSION

Wherefore, the premises considered, the Commission is urged to act promptly on the proposed rulemaking.

Respectfully submitted,

NATIONAL TRANSLATOR ASSOCIATION

By: _____
George R. Borsari, Jr.
Anne Thomas Paxson

Its Attorneys

Borsari & Paxson
4000 Albemarle Street, N.W.
Suite 100
Washington, DC 20016
(202) 296-4800

December 29, 2003